

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**ABEL DELGADO AND ROSA
DELGADO**

v.

**MARIAN DOROBANTU AND R.S.P.
EXPRESS, INC.**

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Civil Case No.: 3:17-cv-03025

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, MARIAN DOROBANTU and R.S.P. EXPRESS, INC., Defendants in the above-referenced matter, and file this, their Notice of Removal under 28 U.S.C. § 1332(a).

**I.
INTRODUCTION**

1. Plaintiffs ABEL DELGADO and ROSA DELGADO are citizens of the State of Texas, and upon information and belief, are residents of Dallas County, Texas.

2. Defendant MARIAN DOROBANTU is a citizen of the State of Michigan, and upon information and belief, resides at 36323 Haverhill Street, Sterling Heights, Michigan 48312.

3. Defendant R.S.P. EXPRESS, INC. is a Michigan corporation with its principal place of business at 28169 Van Born Road, Romulus, Michigan 48174.

4. Plaintiffs have sued Defendants asserting that the alleged negligence on the part of Defendant MARIAN DOROBANTU can be imputed to Defendant R.S.P. EXPRESS, INC. on the doctrine of *respondeat superior*, negligent hiring, training, and supervision, and negligent entrustment in the 68th Judicial District Court, Dallas County, Texas, Cause No. DC-17-12612.

II.
BASIS FOR REMOVAL

5. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiffs' suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is one which is removable to this Court pursuant to the provisions of 28 U.S.C. §1441(b) because Plaintiffs are citizens of the State of Texas, Defendant Marian Dorobantu is a citizen of the State of Michigan, and Defendant R.S.P. Express, Inc. is a Michigan corporation.

6. For diversity purposes, a person is considered a citizen of the state where that person is domiciled. Additionally, for diversity purposes, a corporation is a citizen of both the state in which it was incorporated and the state in which it has its principal place of business. 28 U.S.C. §1332(c)(1). For Defendant R.S.P. Express, Inc., this test implicates only the State of Michigan. Because the Plaintiffs do not share citizenship with the Defendants in any state, removal is proper on diversity grounds.

7. The Defendants are now, and were at the time the removed action was commenced, diverse in citizenship from the Plaintiffs. 28 U.S.C. § 1332. Accordingly, because the notice of removal was filed within thirty days after the receipt of a copy of the initial pleading setting forth the claim for relief this removal is proper and timely under 28 U.S.C. §1446(b).

8. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of Seventy-Five Thousand Dollars (\$75,000.00). Plaintiffs' Original Petition, attached to this Notice, alleges that Plaintiffs intend to show that their damages exceed the sum of

\$200,000.00. (Pl.'s Pet. 2, Sept. 18, 2017.)

9. All pleadings, process, orders, and all other filings in the State Court action are attached to the Notice of Removal as required by 28 U.S.C. § 1446(a) and are resubmitted herewith.

10. The United States District Court for the Northern District of Texas, Dallas Division, embraces Dallas County, Texas, the place where the State Court Action was filed and is pending. This statement is not meant as a waiver of any argument that venue is improper in the location in which the State Court Action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

11. Defendants filed a copy of the Notice of Removal with the Clerk of the State Court in which the action had been pending.

12. Defendants hereby demand a trial by jury in accordance with the provisions of Rule 38 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants, as parties in diversity with Plaintiffs, respectfully request that this action be immediately and entirely removed upon filing this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division, and for such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,

/s/ Michael P. Sharp

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ATTORNEYS FOR DEFENDANTS

MARIAN DOROBANTU AND

R.S.P. EXPRESS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 1st, 2017, the foregoing Index of Pleadings Filed in the State Court Action was filed with the Clerk of the Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to all attorneys of record who have consented in writing to accept this Notice as service of documents by electronic means.

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/s/ Michael P. Sharp

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